

### **REMARKS**

In accordance with the foregoing, Claims 1, 10, 17, 18 and 21 are amended and claim 16 is canceled without prejudice or disclaimer. Claims 1 – 10, 15, 17, 18, 21, 25 and 26 are pending and under consideration. No new matter is presented in this Amendment.

### **Information Disclosure Statement**

An Information Disclosure Statement submitting two references is filed herewith. Consideration of the references is respectfully requested.

### **Request for withdrawal of finality of final Office Action**

Applicants request the withdrawal of the finality of the rejection set forth in the present Office Action as premature. In particular, the Examiner has raised a new ground of rejection in applying Morita et al., (U.S. Patent Application No. 5,793,741) against claims 10, 15 – 18, 21 and 25 - 26. The Examiner alleged that Applicants' amendment necessitated the new ground of rejection. However, the Examiner objected to the Amendment of August 28, 2006 as introducing new matter and consequently, did not consider such amendments in evaluating the claims. (As noted below, Applicants traverse the Examiner's characterization of the August 28, 2006 amendment as new matter.) Since the Examiner has not considered the claim amendments on the merits, it cannot be said that such amendments necessitated the new ground of rejection. Therefore, the finality of the present Office Action should be withdrawn.

### **Request for entry of amendment under 37 CFR 1.116**

Claims 1, 10 and 21 are amended with regard to matters of form and clarity. In particular, claims 1, 10 and 21 are amended to include essential features of claim 16, which are reworded to be appropriate for each of the amended claims. Accordingly, claim 16 is canceled without prejudice or disclaimer. Therefore, the amendment does not raise new issues for consideration. Entry of the amendment under 37 CFR 1.116 is therefore respectfully requested.

### **Objection to claims 10, 15 – 18, 21 and 25 – 26**

At page 2 of the Office Action, claims 10, 15 – 18, 21 and 25 were objected to on the

alleged grounds that the Amendment of August 28, 2006 introduces new matter into the disclosure. In particular, the Examiner alleged that the lead-in area having two track pitches is not disclosed in the specification at all and alleged that it is clear from the specification and figure 2 that there is only one lead-in area marked as area 10. For the following reasons, this rejection is respectfully traversed and reconsideration is requested.

The Examiner is clearly in error in alleging that the specification does not disclose the lead-in-area having two track pitches. In the first place, in numerous places in the specification, it is described that the track pitch in all or a portion of the lead-in area is different from the track pitch in remaining areas of the optical information storage medium. See, for example, paragraphs [0002] and [0017]. Clearly, a description that the track pitch in a portion of the lead-in area is different from the track pitch in the remaining areas of the optical information storage medium sufficiently and necessarily describes that the track pitch in one portion of the lead-in area is different from the track pitch in a remaining portion of the lead-in area. Moreover, it is described at paragraphs [0011] – [0013] and in original claim 3 that the lead-in area can comprise a first subarea in which optical information storage medium-related information is recorded and a second subarea in which copy protection information is recorded and that track pitch in at least one of the subareas is the first track pitch, which is different from the second track pitch in the remaining area of the optical information storage medium. The term “at least one” clearly encompasses a case in which only one of the subareas has the first track pitch, which means that the second subarea, being part of the remaining area of the optical of the optical information storage medium, would have the second track pitch. Further, paragraph [0022] specifically describes an embodiment wherein the track pitch of the area 10a or 10b [of FIG. 2] is I and the track pitch in the remaining areas of the optical storage medium is II. The areas 10a and 10b are different portions of the lead-in area, so clearly, this paragraph describes that one area can have a track pitch I and the other area can have a track pitch II. Moreover, it can be clearly seen in FIG. 2 that the division between track pitch I and track pitch II does not coincide with the division between the lead-in area and the user data area, but rather that the lead in area includes track pitch I and some of track pitch II. Moreover, original claim 12 provided that the lead-in area includes additional data recorded in additional tracks, adjacent pairs of the additional tracks having another track pitch other than the first track pitch, and original claim 19 provided that a first area (having a first track pitch) includes a portion of the lead-in area and a second area (having a second track pitch) includes another portion of the lead-in area. Therefore, the amendment of August 28, 2006 specifying that a first track pitch between

adjacent tracks in a portion of the lead-in area is different from a second track pitch between adjacent tracks in another portion of the lead-in area is abundantly supported in the specification and does not constitute new matter. Therefore, the rejection should be withdrawn.

**Rejection of claims 1 – 9 under 35 U.S.C. §112, first paragraph**

Also at page 2 of the Office Action, claims 1 - 9 were rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The Examiner alleged that the specification does not disclose at all that another portion of the lead-in area itself has a different track pitch. For the following reasons, this rejection is respectfully traversed and reconsideration is requested.

As discussed in detail above, a description that the track pitch in a portion of the lead-in area is different from the track pitch in the remaining areas of the optical information storage medium sufficiently and necessarily describes that the track pitch in one portion of the lead-in area is different from the track pitch in a remaining portion of the lead-in area. Moreover, a second portion of the lead-in area having a second track pitch is shown in FIG. 2. Therefore, the subject matter of claims 1 – 9 is described in the specification, and the rejection should be withdrawn.

**Rejection of claims 1 – 10, 15 – 18, 21 and 25 - 26 under 35 U.S.C. §112, second paragraph**

At page 3 of the Office Action, claims 1-10, 15 - 18, 21, and 25 - 26 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner alleged that claim 1, line 11 is confusing and unclear on the alleged grounds that it is not clear where the second track pitch is located in the lead-in area and why this second pitch is in another portion of the lead-in area. The Examiner further alleged that the scope of another portion of the lead-in area lacks antecedent basis, noting that the term "another portion" does not show up in the specification. The Examiner alleged that the remaining claims have a similar problem. For the following reasons, this rejection is respectfully traversed and reconsideration is requested.

Claim 1 recites that a first track pitch between adjacent tracks in a portion of the lead-in

area is different from a second track pitch between adjacent tracks in another portion of the lead-in area. It is respectfully submitted that it would be clear to persons skilled in the art that if a portion of the lead-in area is described as having a first track pitch, the term "another portion" clearly refers to the portion of the lead-in area that does not have the first track pitch. Therefore the term "another portion" in claim 1 or references to a second area of the lead-in area in the remaining claims would be clear to persons skilled in the art. Whether the exact phrase "another portion" is used in the specification is not relevant, since, as noted above, the specification adequately supports the recitation of another portion of the lead-in area and since the meaning of the term would be clear to persons skilled in the art. Therefore, the rejection should be withdrawn.

#### **Rejection of claims 10, 15 – 18, 21 and 25 – 26 under 35 U.S.C. §102**

Also at page 3 of the Office Action, claims 10, 15 - 18, 21, and 25-26 were rejected under 35 U.S.C. §102(b) as being anticipated by Morita et al., (U.S. Patent Application No. 5,793,741). (Applicants assume that the rejection is over Morita et al., U.S. Patent Application Publication No. 2002/0027869.) The Examiner alleges that the features of the claims are taught at Fig. 1 and paragraphs 30, 71, 93 – 94 and 124 – 125 of the reference. For the following reasons, this rejection is respectfully traversed and reconsideration is requested.

Independent claim 10 as amended herein is directed to an optical information storage medium for recording data in tracks, comprising a lead-in area; a lead-out area; and a user data area; wherein in a first area of the lead-in area in which first data is recorded in corresponding first tracks, adjacent pairs of the first tracks have a first track pitch; wherein in a second area of the lead-in area in which second data is recorded in corresponding second tracks, adjacent pairs of the second tracks have a second track pitch other than the first track pitch, and adjacent pairs of third tracks in the use data area have a third track pitch that is the same as the second track pitch, and pits are formed in the tracks of the first area and second area.

Independent claim 21 as amended herein is directed to an apparatus to optically transfer data with respect to an optical information storage medium that comprises a lead-in area, a lead-out area and a user data area, the apparatus comprising: an optical unit to read first data from first tracks in a first area of the lead-in area, and to read second data from second tracks in a second area of the lead-in area; and a controller to control the optical unit to read the first and second data from the corresponding first and second areas, wherein: adjacent pairs of the first tracks have a first pitch, adjacent pairs of the second tracks have a second pitch other than the

first pitch, and adjacent pairs of third tracks in the user data area have a third pitch that is the same as the second pitch, and pits are formed in the tracks of the first area and second area.

Morita et al., on the other hand, describes an optical storage medium in which the lead-in area has one track pitch and the program area has a different track pitch. Morita et al. also describes that a lead-in area can have a transition region of gradually decreasing track pitch between a lead-in area and the program area. Morita et al. does not teach or suggest an optical information storage medium having a lead-in area, wherein in a first area of the lead-in area in which first data is recorded in corresponding first tracks, adjacent pairs of the first tracks have a first track pitch and in a second area of the lead-in area in which second data is recorded in corresponding second tracks, adjacent pairs of the second tracks have a second track pitch other than the first track pitch, and adjacent pairs of third tracks in the user data area have a third track pitch that is the same as the second track pitch. Therefore, the rejection should be withdrawn.

**Rejection of claim 26 under 35 U.S.C. §103:**

At page 5 of the Office Action, Claim 26 is rejected under 35 U.S.C. §103(a) as being unpatentable over Morita et al., (U.S. Patent Application No. 5,793,741). (Here again, Applicants assume that the rejection is over Morita et al., U.S. Patent Application Publication No. 2002/0027869.) The Examiner alleged by way of an Official Notice that the concept and advantages of providing a differential signal when transferring data are well known and expected in the art. The Examiner took the position that it would have been obvious to include a differential signal in the system of Morita et al. to provide the system with a more efficient way of transferring data and thus saving time and money for recording the information. For the following reasons, this rejection is respectfully traversed and reconsideration is requested.

In the first place, Applicants traverse the Examiner's Official Notice that the concept and advantages of providing a differential signal when transferring data are well-known and expected in the art. The Examiner has only stated his conclusion and has not provided any specific factual findings based on sound technical and scientific reasoning to support his conclusion that the concept and advantages of providing a differential signal when transferring data are well known and expected in the art. Therefore, Applicants request that the Examiner provide documentary evidence to support the assertion, or withdraw the rejection.

Further, the Examiner has only alleged that it would have been obvious to include a

differential signal in the system of Morita et al. This allegation does not address the features of claim 26, which provides that the controller uses a differential signal to perform tracking when transferring the first and/or second data with respect to the optical information storage medium, and that a first differential signal detected from the first data recorded in the first tracks is other than a second differential signal detected from the second data recorded in the second tracks. Morita et al. does not teach or suggest a first differential signal and a second differential signal that is other than the first differential signal.

Moreover, as noted above, Morita et al. does not teach or suggest all of the features of independent claim 21, from which claim 26 depends. Claim 26 does not overcome the failure of Morita et al. to teach the features of claim 21.

Therefore, the rejection should be withdrawn.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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